

Testimony from Terry Miller, Chairman
Lone Tree Council

Lone Tree Council

P.O. 1251, Bay City, Michigan 48706

(Fighting for environmental justice since 1978)

STATEMENT ON H.B. 4617 House Government Operations Committee May 24, 2005

My name is Terry Miller. I am chairman of the 27-year old environmental organization, Lone Tree Council. We have members throughout the Saginaw Bay Watershed including Midland, Bay City and Saginaw. I am here to register their concerns and questions about the proposed H.B. 4617 legislation.

The sponsors refer to this legislation in phrases such as "homeowner fairness"; designed to "protect homeowners" and "beneficial" across the state. We see it as creating homeowner victims; leaving property owners and buyers unprotected and potentially harmed across the state.

This bill jeopardizes human health by encouraging the sale of contaminated property to unknowing buyers. Moreover, through its costly and unnecessary testing requirements along with its property owners right to refuse MDEQ testing, it prevents the MDEQ from doing its professional job and protecting human health.

Under the definition of "Facility", the legislation does not address the party responsible for site specific testing. Is it the "potentially responsible party?" The state? The property owner? Or does it mean that no one is responsible for testing? If, in fact, it is the state, would not the cost of testing each and every property be prohibitive and unnecessary? If lead-based paint, for instance, is typically found in certain age homes in a specific neighborhood or the perimeter of a plume of groundwater pollutants has been established, why would it be necessary to test every house or sample every well before requiring a cleanup?

If no site specific data has been generated, is it legal to sell a home which is suspected of being a facility or suspected of being contaminated, without telling the potential buyers? If a site has not been defined a "facility" can the owner move the soil off the site, even sell it throughout the state?

In its section on restrictions on entry to property, the legislation only allows MDEQ to access residential Homestead properties if there is an "imminent and substantial threat" to public health. How does the MDEQ know what the potential threat is if it is not allowed to enter Homestead property? And what about chronic or long-term exposure to toxics, particularly in regards to pregnant mothers and children, does this not allow "substantial" harm to their public health even though it may not be "imminent?" Moreover, if an obdurate homeowner rejects DEQ testing on his or her contaminated property, and

natural events (wind, water, rain) disperses the contaminants either in public waters or adjacent, cleaned property, who is liable for cleanup?

The solution to protecting property values and insuring property rights is not altering the language governing "facility" definitions but properly characterizing the extent of the contamination and requiring the responsible party to remove it. This legislation seems specifically designed for dioxin, no other contaminants. Its sponsors represent the interests and desires of a minority of homeowners who have little regard for the health and welfare of the great majority of contaminated properties. Its sponsors are also safeguarding the corporate well being of the responsible party, the Dow Chemical Company. In either case, it hardly benefits the health of Michigan citizens or the economic priorities of a state searching for a formula for recovery. What it does represent is a distraction from the important task of creating swimable, fishable waters, and backyards free of the stain of dioxin.

Terry R. Miller, Chairman
Lone Tree Council
4649 David Ct.
Bay City, MI 48706

(989) 686-6386

